

STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION



OFFICE OF RESEARCH AND MATERIALS
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DOCKET NO. 0604-N-21-L

RE: APPLICATION OF M & C HOLLOWAY, LLC TO OPERATE FOUR (4) MOTOR VEHICLES HAVING A SEATING CAPACITY TEN (10) ADULTS OR LESS, IN GENERAL LIVERY SERVICE BETWEEN, ALL POINTS IN CONNECTICUT FROM A HEADQUARTERS IN GROTON, CONNECTICUT.

FINAL DECISION

April 17, 2007

I. INTRODUCTION

A. Application

By application filed on April 20, 2006 with the Department of Transportation (hereinafter "department"), pursuant to Section 13b-103 of the Connecticut General Statutes, as amended, M & C Holloway, LLC (hereinafter "applicant") located at 29 Indian Field Road, Groton, Connecticut seeks authorization to operate four (4) motor vehicles, having a seating capacity of ten (10) adults or less, in general livery service between all points in Connecticut from a headquarters in Groton, Connecticut.

B. Hearing

Pursuant to Connecticut General Statutes, Section 13b-103(a), as amended, a public hearing on this application was held on March 22, 2007.

Notice of the application and of the hearing to be held thereon was given to the applicant and to such other parties as required pursuant to General Statutes Section 13b-103(a)(1), as amended. Legal notice to the public was given by publication in the New London Day, a newspaper having a circulation in the area of concern.

A hearing officer designated by the Commissioner, pursuant to Connecticut General Statutes Section 13b-17 conducted the hearing on this matter.

C. Appearances

The applicant appeared through its owner, Charles D. Holloway and was represented by Jeffrey Londregan, Esq. of Conway & Londregan, 38 Huntington Street, P.O. Box 1351, New London, Connecticut. The applicant's mailing address is 29 Indian Field Road, Groton, Connecticut.

Livery Limited appeared, without counsel, through one of its owners, Harry Boardson. Livery Limited is holder of livery permit No 99 and is authorized to operate livery service from a headquarters in Stonington, Connecticut, a town contiguous to the area of concern. Livery Limited timely petitioned for party/intervenor status. The petition for intervenor was granted. Livery Limited's address is P.O. Box 62, Mystic, CT 06355.

Gary McKeon, owner of McKeon and McKeon, Inc. dba Joshua's Limousine Service, appeared at the hearing and orally moved for party/intervenor status. Joshua's Limousine failed to file a timely petition and was denied intervenor status. McKeon and McKeon, Inc. dba Joshua's Limousine Service address is 172 Stoddard Wharf Road, Gales Ferry, CT 06335.

Sheldon Lubin, utilities examiner with the Regulatory and Compliance Unit was, present at the hearing.

II. FINDINGS OF FACT

1. Charles Holloway is the sole member of the applicant company and currently works for Columbia Air at the Groton New London Airport. He has worked there for 5 years.
2. Holloway works on claims, luggage and sometimes transportation, taking people to and from hotels for Columbia Air.
3. Holloway plans to begin the business on a part-time basis.
4. The applicant has established business accounts, which have a cash balance of approximately \$15,000.
5. Holloway has no criminal conviction history or motor vehicle infractions.

III. DISCUSSION AND CONCLUSIONS OF LAW

The department has jurisdiction over each person, association, limited liability company or corporation owning or operating a motor vehicle in livery service, pursuant to General Statutes Section 13b-102, as amended.

In determining whether a livery permit should be granted, the department shall take into consideration the present or future public convenience and necessity. The applicant must prove that the public's convenience and necessity will be improved by the proposed service. Additionally, the applicant must show the suitability of the applicant or the suitability of the management if the applicant is a limited liability company or corporation, the financial responsibility of the applicant, the ability of the applicant efficiently and properly to perform the service for which authority is requested and the fitness, willingness and ability of the applicant to conform to the provisions of the statutes and the requirements and regulations of the department thereunder, in accordance with General Statutes Section 13b-103.

In support of financial wherewithal to operate the proposed service, the applicant provided proof of cash in the amount of approximately \$14,000. The applicant's expenses to operate the proposed service include insurance, fuel costs, repairs and maintenance. The estimated cost of expenses for a six month start up period for only one vehicle are \$2,321 for insurance, \$4,983 for gasoline, \$8,730 for maintenance and repairs and \$120 for taxes, for a total of \$16,154. With the applicant's available cash on hand, the applicant possesses the financial wherewithal to operate only one vehicle.

In support of suitability, the applicant provided the requisite criminal conviction history form that shows no criminal record for the applicant's management. Holloway testified that he is aware of the laws and regulations that govern livery service in the State of Connecticut and he is willing and able to follow those requirements. The applicant, therefore, possesses the suitability to operate the proposed service.

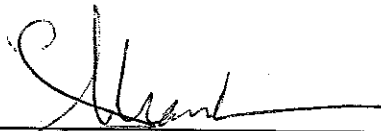
Lastly, the applicant must prove that the present and future public convenience and necessity will be improved by a grant of the authority requested. On this requirement, the applicant fails to meet its burden. No witnesses appeared to testify in this matter that there is a need for livery service in the area of concern. There was no evidence presented that the present and future public convenience would be improved by the proposed service. Although the applicant entered into evidence letters of support, they carry little weight because their signatories were not present for cross-examination. See Norwalk Yellow Cab, Inc. v. Department of Transportation et al, Hartford/New Britain J.D. at Hartford, (Docket no. CV-93-0704676S) July 6, 1994. Consequently, the applicant's testimony was not supported by independent evidence.

IV. ORDER

Based upon the above and pursuant to Conn. Gen. Stat. Section 13b-103, as amended, the application of M & C Holloway, LLC is hereby denied.

Dated at Newington, Connecticut, this 17th day of April 2007.

CONNECTICUT DEPARTMENT OF TRANSPORTATION



Laila A. Mandour
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Bureau of Finance and Administration